

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MORRIS WHITE, LAWRENCE CARRINGTON, and
GEORGE GARDNER,
Individually and on Behalf of All Other
Persons Similarly Situated,

Plaintiffs,

- against -

MEMORANDUM & ORDER

07 CV 2345 (RJD) (JMA)

WESTERN BEEF PROPERTIES, INC., et al.,

Defendants.

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DEARIE, Judge.

In a Report and Recommendation dated March 25, 2013, Magistrate Judge Joan M. Azrack recommends that the Court deny in part and grant in part defendants' motion to decertify the unpaid-overtime collective action that this Court provisionally certified in 2009 under Section 16(b) Fair Labor Standards Act, 29 U.S.C. § 216(b). See Memorandum and Order, July 23, 2009 at 1 (finding that plaintiffs had "met their minimal burden for first-round 16(b) certification, a provisional ruling only").

No objections to the R & R have been filed, and the parties' time to do so has expired.

Under Federal Rule of Civil Procedure 72(b)(3), the Court "must determine de novo any part of the magistrate judge's disposition that has been properly objected to." Accord 28 U.S.C. § 636 ("[a] judge . . . shall make a de novo determination of those portions of the report . . . to which objection is made"). But "[t]hose portions of the R & R to which there is no specific objection are reviewed for clear error." United States v. Dantzler, 12 CR 568 (NGG), 2013 WL 829204, *4 (E.D.N.Y. Mar. 6, 2013). See also United States v. Burke, 09 CR 135 (SJ), 2011

WL 2609837, *1, (E.D.N.Y. July 1, 2011) (“The district judge is not required to review, under a de novo or any other standard, [the] factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed, so long as such are not clearly erroneous”) (internal citations omitted).

Having presided over several years of motion practice addressed to the suitability of the plaintiffs’ claims to either class or collective treatment, and having reviewed the comprehensive, detailed analysis of Magistrate Judge Azrack alongside the parties’ principal submissions on the present motion to de-certify, the Court finds no clear error in the Report and Recommendation and adopts it without qualification. Accordingly, for the reasons explained by Magistrate Azrack, the Court (i) decertifies the Current Class, (ii) denies plaintiffs’ request for the Non-Meat Subclass, and (iii) grants plaintiffs’ request for the Dairy and Receiving Department Subclasses.

SO ORDERED.

Dated: Brooklyn, New York
April 16, 2013

/s/ Judge Raymond J. Dearie

~~RAYMOND J. DEARIE~~
United States District Judge